

ASSEMBLY BILL

No. 2485

Introduced by Assembly Members Jones and Laird

February 23, 2006

An act to add Sections 4501 and 12003.2 to the Fish and Game Code, and to add and repeal Article 5.5 (commencing with Section 18750) of Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code, relating to fish and game.

LEGISLATIVE COUNSEL'S DIGEST

AB 2485, as introduced, Jones. Fish and game: sea otters.

(1) Existing law prohibits the taking of any sea otter, whale, dolphin, porpoise, seal, and sea lion, except in accordance with the federal Marine Mammal Protection Act of 1972 and specified federal regulations.

This bill would state the Legislature's intent to enact legislation to establish a research program focused on reducing sea otter mortality from nonpoint source pollution, contingent upon appropriations administered through the California Coastal Conservancy. The bill would modify the fines and penalties for a violation of specified laws relating to marine mammals and fully protected mammals, as provided. The bill would also make Legislative findings and declarations relating to cat feces and sea otter mortality, and would require any cat litter offered for sale in the state to contain a statement to discourage the flushing of cat litter for the purposes of promoting better water quality.

(2) Under the existing Personal Income Tax Law, taxpayers are allowed to contribute amounts in excess of their tax liability for the support of specified funds.

This bill would additionally allow taxpayers to designate on their tax returns that a specified amount in excess of their tax liability be transferred to the California Sea Otter Fund, which would be created by this bill. It would require money in that fund, upon appropriation by the Legislature, to be allocated to the Department of Fish and Game for the purposes of employing a full-time warden, and to the California Coastal Conservancy for research and programs related to sea otters.

The bill would require the Franchise Tax Board to revise the form of tax returns to provide for the designation and would allow, upon appropriation by the Legislature, the Franchise Tax Board and the Controller to receive a portion of the funds designated to cover costs incurred in collecting and administering the funds.

The bill would provide that these provisions shall remain in effect only until January 1 of the fifth taxable year following the first appearance of the California Sea Otter Fund on the tax return, unless a later enacted statute deletes or extends that date. If, in the second calendar year, the Franchise Tax Board estimates by September 1 that the contributions made on returns filed in that calendar year will be less than \$250,000 or otherwise, as specified, then this article would be repealed with respect to taxable years beginning on or after January 1 of that calendar year.

(3) Existing law generally provides that a violation of the fish and game laws is a crime.

This bill would impose a state-mandated local program by creating a new crime.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. It is the intent of the Legislature to enact
- 2 legislation to establish a research program focused on reducing
- 3 sea otter mortality from nonpoint source pollution, contingent

1 upon appropriations administered through the California Coastal
2 Conservancy.

3 SEC. 2. Section 4501 is added to the Fish and Game Code, to
4 read:

5 4501. (a) The Legislature finds and declares that scientific
6 studies point to links between cat feces, the pathogen T-gondii,
7 and sea otter mortality. The Legislature further finds and declares
8 that efforts to reduce the flushing of cat litter and cat feces are
9 steps toward better water quality in the sea otters' natural habitat.

10 (b) Any cat litter offered for sale in this state shall contain the
11 following statement:

12 "Encouraging your cat to use an indoor litter box is beneficial
13 to overall water quality. Please do not flush cat litter in toilets.
14 Dispose of cat litter with household trash."

15 SEC. 3. Section 12003.2 is added to the Fish and Game Code,
16 to read:

17 12003.2. Notwithstanding any other provision of law, the
18 punishment for any violation of Sections 4500 or 4700 is
19 _____.

20 SEC. 4. Article 5.5 (commencing with Section 18750) is
21 added to Chapter 3 of Part 10.2 of Division 2 of the Revenue and
22 Taxation Code, to read:

23
24 Article 5.5. California Sea Otter Fund
25

26 18750. (a) An individual may designate on the tax return that
27 a contribution in excess of the tax liability, if any, be made to the
28 California Sea Otter Fund, established by Section 18751. That
29 designation is to be used as a voluntary checkoff on the tax
30 return.

31 (b) The contributions shall be in full dollar amounts and may
32 be made individually by each signatory on a joint return.

33 (c) A designation shall be made for any taxable year on the
34 initial return for that taxable year, and once made is irrevocable.
35 If payments and credits reported on the return, together with any
36 other credits associated with the taxpayer's account, do not
37 exceed the taxpayer's liability, the return shall be treated as
38 though no designation has been made. If that no designee is
39 specified, the contribution shall be transferred to the General
40 Fund, after reimbursement of the direct actual costs of the

1 Franchise Tax Board for the collection and administration of
2 funds under this article.

3 (d) If an individual designates a contribution to more than one
4 account or fund listed on the tax return, and the amount available
5 for designation is insufficient to satisfy the total amount
6 designated, the contribution shall be allocated among the
7 designees on a pro rata basis.

8 (e) The Franchise Tax Board shall revise the forms of the
9 return to include a space labeled the “California Sea Otter Fund”
10 to allow for the designation permitted. The forms shall include in
11 the instruction information that the contribution may be in the
12 amount of one dollar (\$1) or more and that the contribution shall
13 be used to provide for the employment of a full-time warden by
14 the Department of Fish and Game, and to provide for research
15 and programs related to sea otters.

16 (f) A deduction shall be allowed under Article 6 (commencing
17 with Section 17201) of Chapter 3 of Part 10 for any contribution
18 made pursuant to subdivision (a).

19 18751. There is in the State Treasury the California Sea Otter
20 Fund to receive contributions made pursuant to Section 18750.
21 The Franchise Tax Board shall notify the Controller of both the
22 amount of money paid by taxpayers in excess of their tax liability
23 and the amount of refund money that taxpayers have designated
24 pursuant to Section 18750 to be transferred to the California Sea
25 Otter Fund. The Controller shall transfer from the Personal
26 Income Tax Fund to the California Sea Otter Fund an amount not
27 in excess of the sum of the amounts designated by individuals
28 pursuant to Section 18750 for payment into that fund. It is the
29 intent of the Legislature that the 2008 tax return includes a space
30 for the California Sea Otter Fund.

31 18752. All money transferred to the California Sea Otter
32 Fund, upon appropriation by the Legislature, shall be allocated as
33 follows:

34 (a) To the Franchise Tax Board and the Controller for
35 reimbursement of all costs incurred by the Franchise Tax Board
36 and the Controller in connection with their duties under this
37 article.

38 (b) To the Department of Fish and Game for the purposes of
39 employing a full-time warden.

1 (c) The balance, if any, to the California Coastal Conservancy
2 for research and programs related to sea otters.

3 18753. (a) This article shall remain in effect only until
4 January 1 of the fifth taxable year following the first appearance
5 of the California Sea Otter Fund on the tax return, and as of that
6 date is repealed, unless a later enacted statute, that is enacted
7 before the applicable date, deletes or extends that date.

8 (b) If, in the second calendar year after the first taxable year
9 the California Sea Otter Fund appears on the tax return, the
10 Franchise Tax Board estimates by September 1 that contributions
11 described in this article made on returns filed in that calendar
12 year will be less than two hundred fifty thousand dollars
13 (\$250,000), or the adjusted amount specified in subdivision (c)
14 for subsequent taxable years, as may be applicable, then this
15 article is repealed with respect to taxable years beginning on or
16 after January 1 of that calendar year. The Franchise Tax Board
17 shall estimate the annual contribution amount by September 1 of
18 each year using the actual amounts known to be contributed and
19 an estimate of the remaining year's contribution.

20 (c) For each calendar year, beginning with the third calendar
21 year that the California Sea Otter Fund appears on the tax return,
22 the Franchise Tax Board shall adjust, on or before September 1
23 of that calendar year, the minimum estimated contribution
24 amount specified in subdivision (b) as follows:

25 (1) The minimum estimated contribution amount for the
26 calendar year shall be an amount equal to the product of the
27 minimum estimated contribution amount for the prior September
28 1 multiplied by the inflation factor adjustment as specified in
29 paragraph (2) of subdivision (h) of Section 17041, rounded off to
30 the nearest dollar.

31 (2) The inflation factor adjustment used for the calendar year
32 shall be based on the figures for the percentage change in the
33 California Consumer Price Index received on or before August 1
34 of the calendar year pursuant to paragraph (1) of subdivision (h)
35 of Section 17041.

36 (d) Notwithstanding the repeal of this article, any contribution
37 amounts designated pursuant to this article prior to its repeal
38 shall continue to be transferred and disbursed in accordance with
39 this article as in effect immediately prior to that repeal.

1 SEC. 5. No reimbursement is required by this act pursuant to
2 Section 6 of Article XIII B of the California Constitution because
3 the only costs that may be incurred by a local agency or school
4 district will be incurred because this act creates a new crime or
5 infraction, eliminates a crime or infraction, or changes the
6 penalty for a crime or infraction, within the meaning of Section
7 17556 of the Government Code, or changes the definition of a
8 crime within the meaning of Section 6 of Article XIII B of the
9 California Constitution.

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